



Chairman Nofs, Vice Chairman Proos and members of the committee. Thank you for allowing me to speak today. My name is Teresa Ringenbach and I am presenting today on behalf of Direct Energy.

Competitive markets were built on free market principles that customers are in control of choosing the price they pay for electricity. We are at a point in history where technologies have created an expectation by customers that they are in charge. No longer do customers take the time to drive to the store for products they order on Amazon and have them delivered to their homes, customers do not watch commercials or wait week to week for the next episode of their favorite show. Instead, they binge watch on Netflix or DVR and watch at their discretion from whatever location. These are the principles that guide our products and offers to customers, at the end of the day the customer has the choice of electricity products and services that meet their specific needs – the customer is in charge.

The reason that I am testifying today is that SB 437 will not maintain the 10% retail electric choice (or competition) market in Michigan. In fact, certain provisions in SB 437 will do the exact opposite – it will eliminate the option for the 10% of customers who are enjoying competitive electric service.

Direct Energy is a residential and commercial provider of electricity, natural gas and home services products. We serve over 5 million customers across North America. Our parent company Centrica is a Global 500 business with over 27.9 million customer accounts worldwide. In Michigan, our business focus is retail electricity service, natural gas service and home services through our HVAC and electrician franchisees. Today, we serve more than 1,100 electric customers in Michigan under the cap. Ultimately Direct Energy would prefer a fully open Michigan electric market like we see in other states. We have heard that there are 2 main goals associated with SB 437:

- Continue to allow the 10% of customer load on electric choice to maintain their right to a choose supplier and enjoy the benefits of competition but not expand the market further.
- Ensure adequate generation capacity exists for the State of Michigan.

As I mentioned at the outset, SB 437 will not preserve the 10% choice market but rather eliminate it. The primary reason that SB 437 will eliminate electric choice is due to the onerous capacity procurement obligations that would be imposed upon competitive suppliers alone and not the utilities. The utilities will be allowed to operate within the normal constraints and under the normal rules imposed by the competitive wholesale market by the Mid-Continent Independent Systems Operator (MISO). In fact, SB 437 would mandate that 10% of the market be forced to purchase more capacity than their customers need for service while 90% of the market has no similar mandates.

Forcing 10% of the market to over procure and over pay would not create enhanced reliability for the other 90% who have no similar purchasing requirements, rather it will only raise energy costs for the customers who participate in electric choice.



Before I go into our proposed changes to ensure SB 437 actually preserves the 10% retail electric choice market as it has been described, I want to cover a few key terms.

- 1) Capacity for any entity behind MISO comes with a reserve margin. We purchase the MISO required reserve margin like any other supplier or utility.
 - a. Any additional requirements for competitive suppliers or utilities to demonstrate that we have met the applicable MISO resource adequacy and reserve margin requirements is a fair and reasonable request of the state.
- 2) MISO ensures capacity for the entire transmission region which spans 16 States and Manitoba, Canada. Capacity moves with the customer. A supplier cannot serve a customer and then refuse to share capacity if the customer leaves. That capacity doesn't just disappear because a customer moved to another supplier or to the utility. This is a very important point because there were statements made last week that implied somehow a customer switching suppliers removed capacity needed to serve remaining utility customers.
 - a. That is absolutely not true. Instead the capacity moves to the customers who need it and the financial transactions to buy or sell occur to ensure that happens.
- 3) Capacity is something suppliers are mandated by MISO to buy to serve every single one of our customers. Regardless of whether there is a state law that mandates a capacity purchase or not, both the utility and the supplier are mandated through regulations imposed by MISO but overseen by federal regulators to buy capacity for our load.
 - a. So again a state law that says a supplier must show capacity to serve their customers isn't the problem – we do it today.
 - b. The problem is how the state law wants us to do it and that is what I would like to discuss today.

Now that we have the basics, what is in SB 437 that would kill rather than maintain the market?

I want to start by referencing back to the testimony of David Mengebier from Consumers. Mr. Mengebier testified that SB 437 is about fairness. However it is clear that SB 437 puts requirements on suppliers that utilities do not face. Most specifically, suppliers must enter into long term agreements for capacity. Essentially, forcing longer term contracts than needed onto suppliers and customers. This is the very thing that Mr. Mengebier clearly stated Consumers would oppose. His words were “



On one point, I want to be very clear: we will oppose any requirement that would effectively force utilities to sign long-term contracts with third party power plants. The IRP process gives all interested stakeholders an opportunity to advance alternative proposals and establishes a very stringent legal standard of MPSC review.

In our experience, long-term contracts lack flexibility, locking in prices for customers to a sole source of supply for decades and greatly restricting our operating flexibility in the face of changing market conditions.

Direct Energy agrees statutory mandates for long term mandatory contracts lack flexibility that allow for lower prices in the market. Similar to Consumers while we oppose mandatory contracts for overly long terms we are amenable to a stringent MPSC review of our practices to ensure reliability. However, SB 437 is not a fair balance between utility and supplier. It places on suppliers the very obligations Consumers would oppose being placed onto a utility. In addition, suppliers participate in the exact same capacity market and are subject to the exact same market rules as the utility yet at a state level we would be forced into procurements at a higher amount than a utility itself would tolerate.

SB 437 mandates suppliers purchase for the longer of their contract or 3 years of capacity. This provision should be changed. A mandate to have a supplier show the Commission the same information we are mandated to provide to MISO for capacity is not unreasonable. However, a mandate to purchase more than is needed to serve is simply unfair and unreasonable. Generators cannot withhold capacity and suppliers are forced to participate in the MISO auction so no entity can keep capacity from a customer. It will only place the Michigan customer at a disadvantage to not only utility customers but their competitors in other states by killing the 10% market.

While I know there is not a lot of confidence in MISO, the reality is MISO does not let a supplier simply not procure capacity. MISO forces a supplier to purchase capacity if they don't respond. In fact, MISO will mandate a supplier's load be included in the annual capacity procurement unless a supplier shows they have already procured outside of the procurement auction (also referred to simply as the MISO auction). So any concern that a supplier would not have capacity to serve their customers is misplaced. A supplier is automatically subject to the MISO auction unless they prove to MISO they have procured separately. If a supplier opts out of the auction and does not procure adequate capacity on their own, they are subject to a huge financial penalty (2.7 times Cost of New Entry). In practical terms today this is approximately \$2.6 million a year for each MW that a supplier could be short. Suppliers must procure capacity for the load they serve every single year or spend millions. Therefore a better solution in SB 437 would be to mandate



suppliers show the MPSC the same information they provide in MISO's Module E which is the capacity commitment. I would note that this normal MISO process is what the utilities remain subject to in SB 437 while a supplier is forced into over procurements for our customers. Requiring utilities and suppliers to provide Module E data access would allow the MPSC to see how much load is in the auction or through another capacity contract while verifying that no entity (supplier or utility) goes short.

Regarding the amount of capacity to be procured, SB 437 as written is simply an unnecessary cost for unneeded capacity on a customer. Capacity isn't something a supplier or customer can hold onto and not use. In fact, the MISO tariff has limits on how much capacity a supplier can hold before it is forced into penalty situations. Again we would be subject to millions of dollars in penalties if a supplier is forced to hold capacity for our customer for years we are no longer serving them. My company has serious concerns that it could cross into market manipulation rules. We cannot tell MISO that MISO cannot use capacity for customers simply because Direct Energy needs to hold onto the capacity for non-use by a customer in Michigan. SB 437 in this circumstance places a supplier in the position of choosing to suffer millions in penalties and potentially Federal market manipulation laws to serve in Michigan. In the end the result will be suppliers not serving. As a side note these are the very laws put into place to protect markets post California crisis Mr. Makovich referred to last week. I am sure he is not advocating breaking the very laws put in place due to the crisis he referenced.

In order for SB 437 to meet its intent to maintain the 10% retail choice market, then a better solution would be to amend the capacity procurement language. Instead a supplier should be mandated to disclose to the MPSC the same information in the same detail that we provide to MISO to prove capacity procurement. A supplier should provide not only current year MISO commitments but also data for a commitment for the following planning year. This would allow the Commission to see current and one year out supplier commitments which roll year upon year without an over procurement for customers. In the end this would accomplish the goal of MPSC oversight of suppliers along with visibility into the MISO process to ensure capacity obligations will be met plus a future view. This would ensure compliance with MISO and Federal requirements while maintaining committed capacity for the customers we serve.

I will say again, that ultimately we believe a 100% open market has been proven to work. Prices in neighboring competitive states are lower and new generation is being built. I have attached data on those points to my testimony. However, if SB 437 is solely to maintain the 10% cap it should be modified to achieve that goal.

Any legislation that requires suppliers to purchase unneeded capacity for their customers or forces suppliers to purchase more expensive capacity than the wholesale market provides would result in the elimination of electric choice. This is a mathematical fact and there is no need to take my word for it. Just this Monday, in a report about the financial standing of DTE, UBS financial analysts reported,



"As expected, the Michigan Senate Energy and Technology Committee as led by State Senators Mike Nofs... introduced energy legislation on July 1 that would likely end electric choice as it is today"

For that reason Direct Energy urges you to modify or vote no on SB 437.

Thank you for your time today and I can take questions if you have any.

Teresa Ringenbach
Senior Manager - Government and Regulatory Affairs (Midwest)
Direct Energy
21 E. State Street, 19th floor
Columbus, OH 43215
Teresa.Ringenbach@directenergy.com
Office: 1-614-220-4369 Ext. 230
Office Cell: 614-633-6829
Personal Cell: 216-308-0556

Proposed Amendment to SB 437 (S-1)

The following proposed amendments would ensure fair treatment of capacity purchases for choice customers.

Page 50 lines 15-16

Delete the words BY NOVEMBER 1 OF and Replace with:

PROVIDE ACCESS TO OR FILE, UNDER SEAL AT THE MICHIGAN PUBLIC SERVICE COMMISSION, A COPY OF ITS CAPACITY COMMITMENT DATA AND INFORMATION PROVIDED TO THE INDEPENDENT SYSTEM OPERATOR INCLUDING MODULE E INFORMATION PROVIDED TO MISO OR THE THEN CURRENT SYSTEM IN USE, BY APRIL 30th EACH YEAR FOR LOAD SERVED IN THE UPCOMING PLANNING YEAR AND ACCESS TO THE SAME INFORMATION

P 50 line 16

Insert the words IN ORDER TO after "each year" so it now reads:

EACH YEAR IN ORDER TO DEMONSTRATE TO THE COMMISSION, IN A FORMAT

P 50 line 20

Delete the word INCLUDING and replace with:

IN ADDITION AN ALTERNATIVE ELECTRIC SUPPLIER SHALL PROVIDE

P 51 line 3

Replace 5 YEARS with:

PLANNING YEAR

P 51 line 16

Delete the word PREPAID

P 52 line 4

Delete the words "SHALL NOT EXCEED 5% OF THE ALTERNATIVE ELECTRIC SUPPLIER'S CAPACITY REQUIREMENTS UNDER SUBSECTIONS (3) AND (4)"

Replace with: **THE ALTERNATIVE ELECTRIC SUPPLIER MUST PROVIDE THE PERCENTAGE OF LOAD THEY WILL PROCURE FROM THE CURRENT PLANNING YEAR WHOLESALE MARKET AUCTION AND THE FOLLOWING PLANNING YEAR WHOLESALE**

MARKET IN ADDITION TO HOW MUCH OF THAT AMOUNT WAS THROUGH A BI-LATERAL CAPACITY CONTRACT.

P. 53 Line 4

Delete the word ESTABLISH

Replace with:

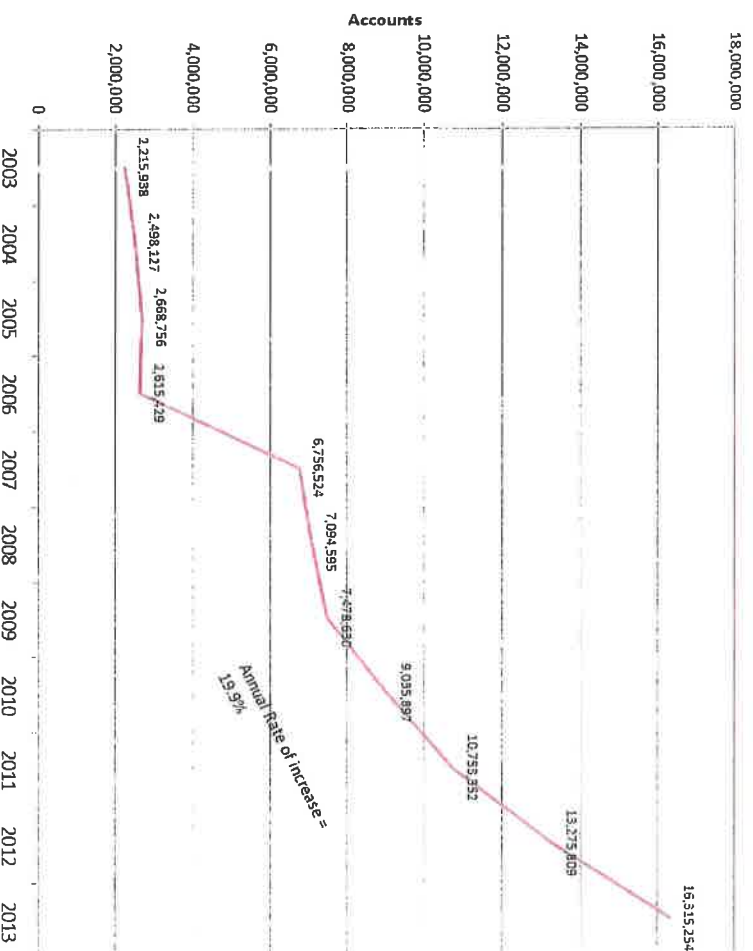
**ENSURE ALTERNATIVE ELECTRIC SUPPLIERS ALSO MEET THE INDEPENDENT
SYSTEM OPERATORS**

P. 53 Line 7

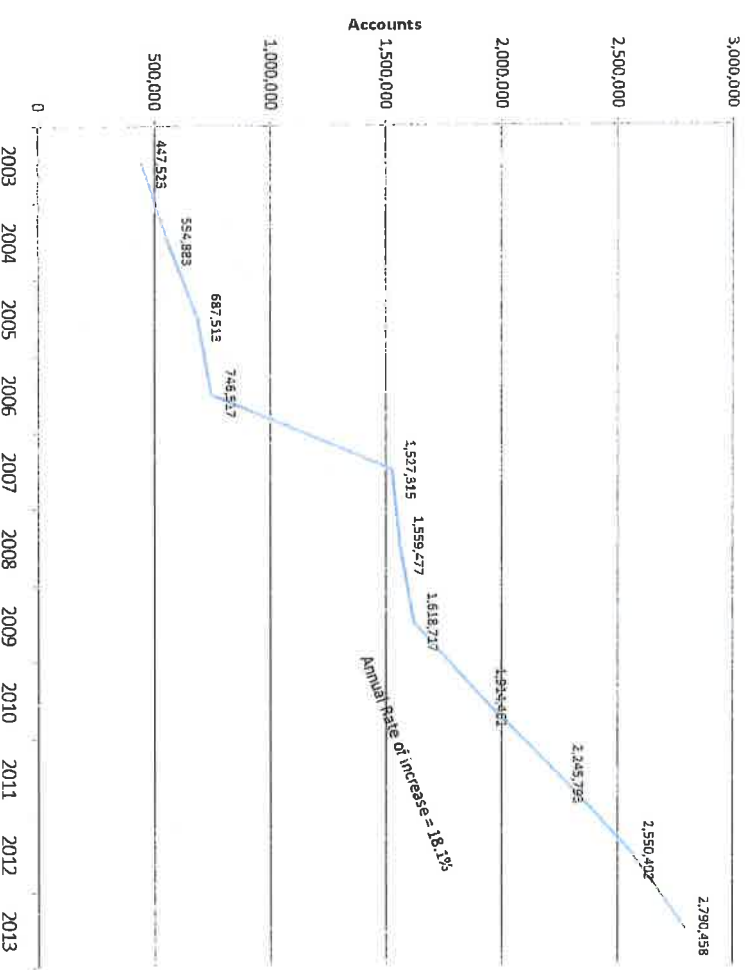
Delete the words: **THE PLANNING RESERVE MARGIN REQUIREMENTS SHALL BE BASED ON RECENT ACTUAL LEVELS OF PEAK DEMAND PLUS A REASONABLE PROJECTION OF 5-YEAR PEAK DEMAND GROWTH, AND SHALL BE DESIGNED TO ENSURE THAT THE RISK OF AN OUTAGE IN THIS STATE DUE TO LACK OF ELECTRICITY SUPPLY IS NO MORE LIKELY THAN ONCE EVERY 10 YEARS.**

CUSTOMERS EMBRACE CHOICE WHEN GIVEN THE OPPORTUNITY - >19MM COMPETITIVE ACCOUNTS

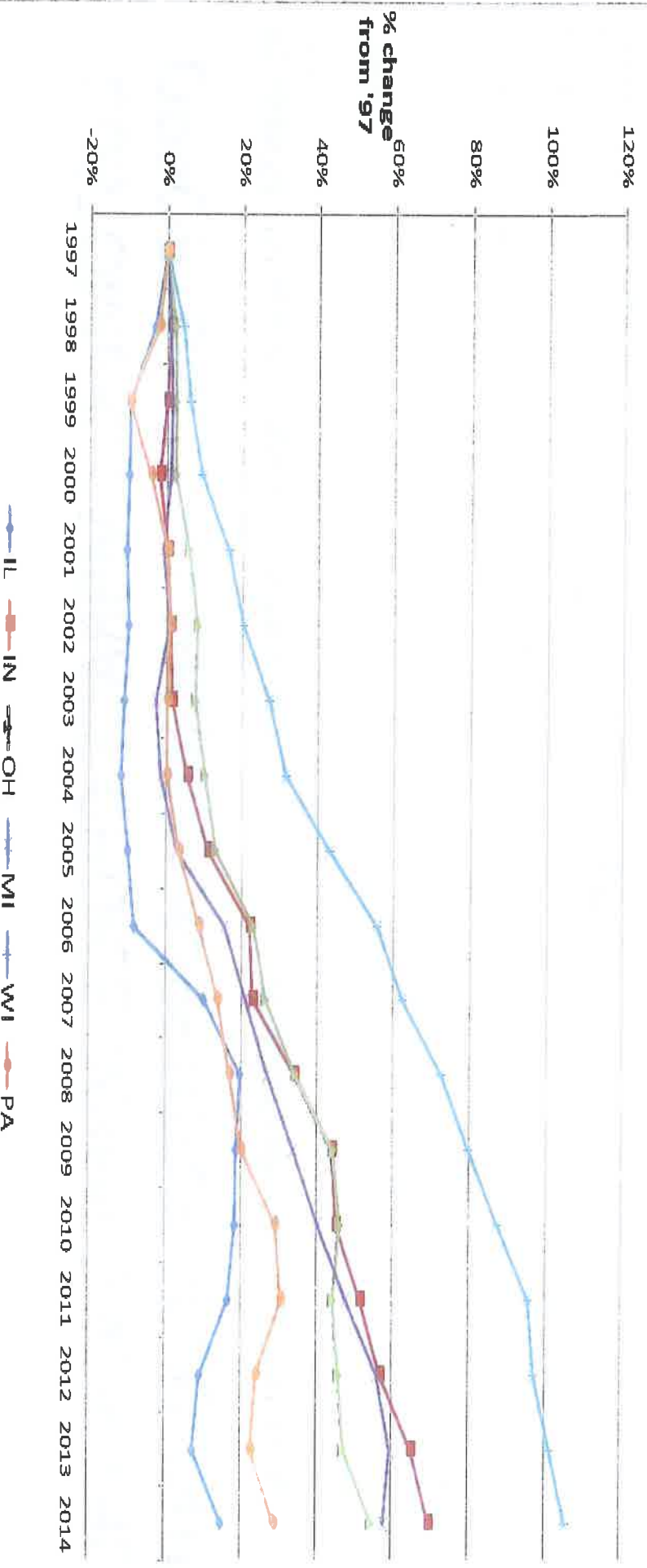
RESIDENTIAL INCREASED 636% – TO 16.3MM IN 2013



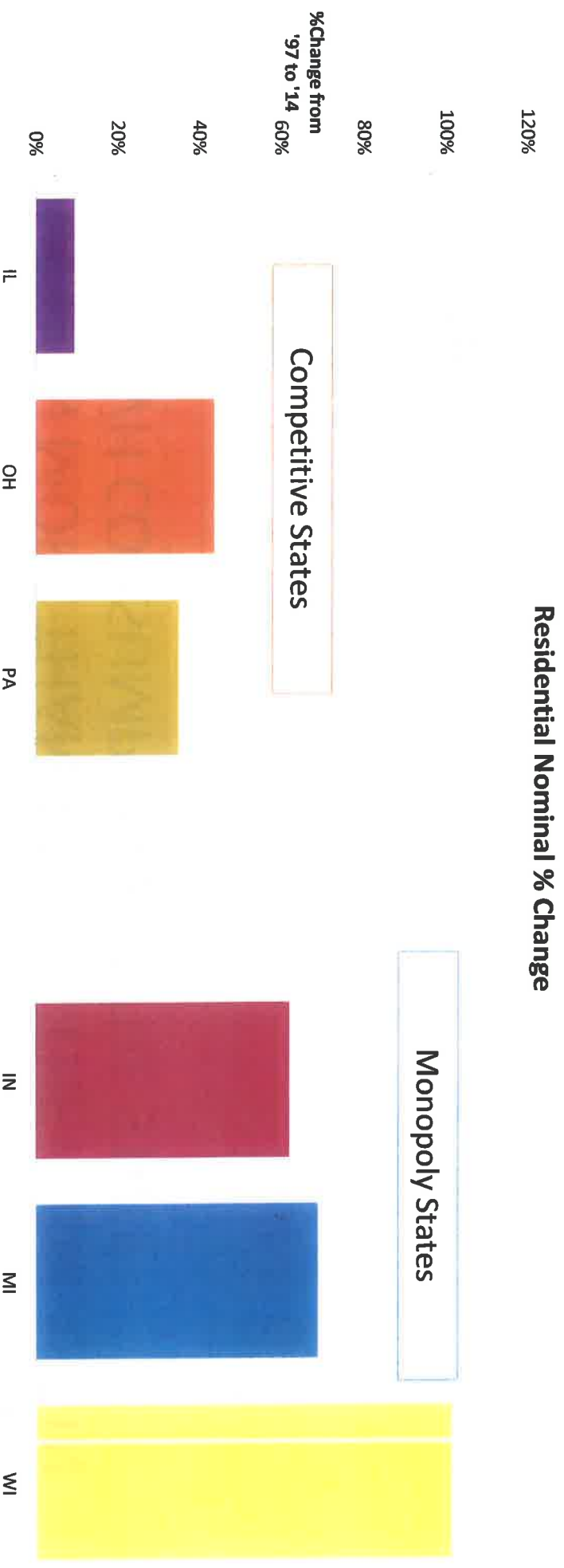
C&I INCREASED 524% - TO 2.8MM IN 2013



1997-2014: PRICE CHANGE % IN CHOICE STATES ILLINOIS, OHIO & PENNSYLVANIA WERE MORE FAVORABLE FOR CONSUMERS THAN IN MONOPOLY STATES INDIANA, MICHIGAN & WISCONSIN



1997-2014: GREAT LAKES RESIDENTIAL CUSTOMERS HAVE SEEN HIGHER % PRICE INCREASES UNDER MONOPOLY



1997-2013: CHOICE STATE ILLINOIS INCREASED MWH PRODUCTION MORE THAN 4 TIMES THE INCREASE IN MWH CONSUMPTION IN THE STATE

